



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Computer Systems Development Corporation

File: B-275356

Date: February 11, 1997

John R. Tolle, Esq., Barton, Mountain & Tolle, LLP, for the protester.
Barbara S. Kinosky, Esq., Bean, Kinney & Korman; and James S. Phillips, P.C., Esq., for Cost Management Systems, Inc., an intervenor.
Keith Simmons, Esq., and James T. Tate, Jr., Esq., Department of Defense, for the agency.
Marie Penny Ahearn, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging award to higher-priced, higher technically rated offeror is denied where solicitation's evaluation scheme gave greater weight to technical merit than to price; agency reasonably determined that awardee's proposal was technically superior to protester's; and by identifying and costing specific technical discriminators as a tool in its best value assessment, agency reasonably concluded that protester's lower price did not outweigh technical advantages of awardee's proposal.

DECISION

Computer Systems Development Corporation (CSDC) protests the award of a contract to Cost Management Systems, Inc. (CMS) under request for proposals (RFP) No. HQ0006-96-R-0004, issued by the Ballistic Missile Defense Organization (BMDO), Department of Defense (DOD), to provide support services for automated information systems (AIS). The protester argues that BMDO improperly evaluated proposals and unreasonably selected CMS for award despite CMS' higher price.

We deny the protest.

BACKGROUND

The RFP contemplated award of a cost-plus-fixed-fee contract for a 2-year base period with two 1-year options, on a best value basis. The technical evaluation factors, in descending order of importance, were: (1) past performance,

(2) personnel, (3) understanding and approach, (4) corporate experience, and (5) management; each factor was to be evaluated with a color rating and risk assessment. Proposed cost was to be evaluated for realism, completeness and reasonableness; the results of the cost realism analysis would be used to adjust proposals to the most probable cost (MPC) to the government, which in turn would be used to assist in the best value determination. The RFP provided in this regard that "[w]hile the evaluated probable cost to the government is a substantial area to be taken into account in the overall integrated assessment of offers, the non-cost factors collectively are of greater importance," and that "[t]herefore, the government may select other than the lowest cost/priced, acceptable offer if it is determined that the additional capability offered is worth the additional cost in relation to other acceptable offers."

Ten proposals were received, five of which, including those from CSDC and CMS, were evaluated at an acceptable level and included in the competitive range. Discussions were held and best and final offers (BAFO) requested. CMS' BAFO was rated blue under three of the five technical factors--past performance, understanding and approach, and corporate experience--and green for the remaining factors and also received a low risk assessment.¹ CSDC's BAFO was rated green under all factors and received a low risk assessment. (Two other proposals received technical ratings higher than CSDC's, but are not relevant here.) CSDC's BAFO cost was low at \$5,819,303--but was adjusted upward to a \$5,894,937 MPC--while CMS' was second high at \$7,013,870.

The source selection evaluation team (SSET) determined that the value impact of the quantifiable discriminators of CMS' highest rated proposal was \$1,224,426, which was greater than the \$1,118,933 cost advantage offered by CSDC's low MPC, and thus would result in a cost savings or benefit to the government of \$105,495.² The source selection authority (SSA) reviewed the SSET's evaluation and determination, concluded that the benefits of CMS' technical proposal indeed outweighed CSDC's proposal's lower cost, and thus selected CMS for award.

¹Blue was defined as "exceeds specified performance or capability in a beneficial way to BMDO, and has no significant weakness," and green was defined as "meets evaluation standards and any weaknesses are readily correctable."

²The agency determined that several other nonquantifiable qualitative discriminators added value to CMS' proposal.

TECHNICAL EVALUATION

CSDC challenges various aspects of the technical evaluation and essentially concludes that its proposal should have been evaluated as technically equal to the awardee's, and that it therefore should have received the award based on its low MPC.

Our Office will not question an agency's evaluation of proposals unless it was inconsistent with the RFP or unreasonable. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203; Dylantic, Inc., B-261886, Oct. 30, 1995, 95-2 CPD ¶ 197. We find nothing objectionable with the evaluation here.

Past Performance

CSDC challenges the evaluation of past performance on the basis that the agency improperly failed to consider the dollar value similarity of the offerors' prior contracts to the procurement here. As a result, CSDC notes, CMS' proposal received a blue rating based on past contracts of a generally smaller dollar value than the procurement here, while CSDC's proposal received a green rating despite the fact that its prior contracts generally were of a greater dollar value than the procurement here. CSDC concludes that there was no basis for rating CMS' proposal higher than its own under this factor.

This argument is without merit. The RFP specified that the evaluation of past performance would encompass the "[c]ontractor's performance in previous contracts including quality, timeliness/responsiveness, cost control, and customer satisfaction." As the RFP did not state that similarity of dollar value would be considered in this assessment, the agency properly did not focus on dollar value similarity.

BMDO rated CMS' past performance blue based on the offeror's overwhelmingly excellent past performance questionnaire responses and positive self-assessments (the two informational bases for evaluating past performance). Specifically, 100 percent of the past performance questionnaires indicated that CMS' performance had at least met expectations, and 75 percent indicated that the firm exceeded expectations. Additionally, CMS' self-assessments were evaluated as "excellent" based on described problem prevention/lessons learned which resulted in improved contract performance. In contrast, only 80 percent of CSDC's questionnaires rated the firm's performance as having met expectations, less than 75 percent rated its performance as having exceeded expectations, and several responses cited instances of unsatisfactory performance based on not submitting invoices to the government on time and not paying a subcontractor. We conclude

that the evaluation of proposals in this area encompassed the elements stated in the RFP, and that CMS' past performance reasonably was rated superior to CSDC's.³

Corporate Experience

CSDC challenges the evaluation of corporate experience on the same basis as its challenge to the past performance evaluation--the size of contracts was ignored or given little weight in the agency's assessment. Specifically, the protester complains that the agency based CMS' higher rating on two DOD contracts--which the agency determined were greater in scope than the procurement here--even though the record indicates that only one of those contracts was of a greater dollar amount. The protester further complains that CMS' higher rating in this area was based on its having provided services to other DOD agencies, although there was no specific requirement in the RFP for such experience.

Under the corporate experience factor, the RFP provided that consideration would be given to the "[b]readth (i.e., variety or number of contracts) and significance (i.e., size, complexity, participation) of corporate experience (including subcontractors and consultants of this proposal) in accomplishing efforts relevant to those described in the [statement of work] SOW." The RFP also provided that "[w]hen cited contracts cover a variety of size and complexity, greater weight goes to relevant contracts of a size and complexity equal to or greater than this solicitation," and that "[p]articular emphasis shall be placed on contracts that provide [AIS] services in a dynamic environment . . . [such as] . . . [o]pen architecture or systems migration experience."

CMS' experience was rated blue, and superior to CSDC's, because it was found to exceed the minimum requirements, based on CMS' experience in performing the exact same work as that required under the RFP for the Offices of the Under Secretary of Defense for Acquisition and Technology and the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, both of which offices were considered by the evaluators to have technical and political environments comparable to BMDO. We find nothing unreasonable in this evaluation. While contract size was identified as one of the considerations under this factor, the entire corporate experience evaluation was to be based on

³In any case, the record does not support the protester's suggestion that CMS' prior contracts were of a smaller dollar value than the current requirement. CMS had one past contract in the amount of \$19.2 million and was the subcontractor on a contract in the amount of \$46.5 million. In addition, the record indicates that one of CMS' proposed subcontractors had past performance with contracts in the amount of \$1.5 billion and \$300 million.

experience "in accomplishing efforts relevant to those described in the [statement of work]," that is, similarity of the work performed to the work under the RFP. Contract size was not assigned greater significance than similarity of the work performed or any other consideration. Indeed, as noted, "particular emphasis" was to be given AIS services contracts performed in a dynamic environment. CMS' superior rating was consistent with this emphasis--it was based on the firm's extensive experience in the AIS area and, particularly, on the fact that the firm had performed the exact same work as required under the RFP for other DOD agencies (presumably also in a similar dynamic environment). Given that the RFP did not preclude consideration of work performed for other DOD agencies, the fact that the RFP did not specifically require experience with other DOD entities is irrelevant to the propriety of the agency's consideration of CMS' experience. We conclude that, to the extent CSDC may have performed larger dollar value contracts than CMS, there was nothing improper or unreasonable in the agency's essentially determining that this consideration was outweighed by, and thus did not warrant as high a rating as, the similarity of the work under CMS' prior contracts. Counter Technology Inc., B-260853, July 20, 1995, 95-2 CPD ¶ 39; see Noslot Cleaning Servs., Inc., B-251264, Mar. 18, 1993, 93-1 CPD ¶ 243.⁴

COST EVALUATION

CSDC argues that the agency improperly adjusted the firm's proposed government site labor overhead rate upward from 28 percent to 31.1 percent, resulting in a \$75,634 increase in CSDC's proposed cost. The record shows that the agency adjusted CSDC's overhead rate because it was below the range of rates in the other proposals, CSDC did not provide the detailed information necessary to support the rate, and the agency was unable to verify the rate through the Defense Contract Audit Agency (DCAA). CSDC generally disagrees with the agency's position, but has provided no specific information or argument showing that the adjustment was unreasonable. Energy and Envtl. Servs. Corp., B-258139.4, May 15, 1995, 95-2 CPD ¶ 32. In any case, the adjustment had no apparent effect on the award, and thus resulted in no prejudice to CSDC, since the evaluated cost benefit on which the award to CMS was based was greater than the amount of the adjustment. See Prospect Assocs., Inc., B-260696, July 7, 1995, 95-2 CPD ¶ 53.

COST/TECHNICAL TRADEOFF

CSDC challenges the cost-technical tradeoff on the grounds that neither the agency's methodology in assigning a cost impact to technical proposal

⁴In any event, as already discussed, the record indicates that CMS' experience included experience as the prime on a \$19.2 million DOD contract, and as a subcontractor on a \$46.5 million Air Force contract.

discriminators, nor the discriminators themselves, were disclosed in the RFP. The protester asserts that had it known that the tradeoff would focus on technical features/capabilities that exceeded the RFP requirements, it would have offered these extras.

In order to assist in making a best value determination, the SSET identified various discriminating factors in CMS' higher-cost, highest-rated technical proposal, and the value impact of those differences compared to CSDC's low cost, technically acceptable proposal. Specifically, the SSET identified nine discriminators (covering all of the evaluation factors except management) and determined that their total value impact in terms of cost savings or benefit to the government was \$1,224,426,⁵ which was greater than the advantage offered by CSDC's low cost proposal. Based on CMS' cost savings discriminators and its low best value total cost, as calculated above, the SSET recommended award to the firm. The source selection authority (SSA) concurred with the SSET's recommendation, determined that the "additional benefits derived from CMS' technical proposal outweigh the lower cost of the . . . CSDC proposal," and directed award to the firm.

In negotiated procurements, where an agency chooses between a higher-cost, higher-rated proposal and a lower-cost, lower-rated proposal, our review is limited to determining whether the cost/technical tradeoff is consistent with the stated evaluation criteria and otherwise reasonable. Purvis Sys. Inc., 71 Comp. Gen. 203 (1992), 92-1 CPD ¶ 132; Central Texas College, 71 Comp. Gen. 164 (1992), 92-1 CPD ¶ 121.

BMDO's cost/technical tradeoff was consistent with the RFP and reasonable. While the agency's specific methodology--assigning specific dollar value to discriminators and subtracting those values from the proposed cost--was not disclosed in the RFP, it clearly was consistent with the evaluation as described in the RFP. In this regard, the RFP notified offerors that, if necessary, the best value determination would include a cost/technical tradeoff analysis, and that "[t]his comparative evaluation w[ould] focus on significant differences or discriminating factors between the proposals and the value impact of those differences." The RFP further specifically provided that "the government may select other than the lowest cost/priced, acceptable offer if it is determined that the additional capability offered is worth the additional cost in relation to other acceptable offers." Offerors, including the protester, were on notice from this RFP language that the agency would assign values to discriminators between proposals, and that is precisely what the agency did during its tradeoff deliberations. See Engineering and Professional Servs., Inc., B-262179, Dec. 6, 1995, 95-2 CPD ¶ 266 (where we found unobjectionable the use of

⁵Value impacts were assessed using equivalent government rates and historical costs incurred from the current contract.

a similar methodology which was executed in reverse by adding the dollar value of the discriminators to proposals that did not possess the particular features).

Further, the discriminators identified by the agency clearly were encompassed by the stated evaluation factors. For example, under the understanding and approach factor, defined in the RFP as "understanding of requirements and approach to automated systems support services as described in the statement of work," the SSET determined that CMS' offer presented two discriminators or significant differences between it and other proposals--a reduced start-up time of 2 weeks (which exceeded the requirement for a transition period not to exceed 90 days), and 24-hour staff coverage for support of the AIS facilities using pager technology (which exceeded the requirement for operation from 6 a.m. to 10 p.m. Monday through Friday and 8 a.m. to 4 p.m. weekends and holidays). The SSET determined that the shortened transition period would result in a saving to the government of \$330,000 due to 2-1/2 months of incumbent services that would not be needed, and that the 24-hour coverage would result in a cost benefit of \$357,994. Both discriminators involve CMS' approach to providing AIS services, and thus were encompassed by the understanding and approach factor.

We conclude that the RFP provided sufficient notice to offerors as to the manner in which the tradeoff would be conducted. Moreover, where, as here, detailed technical proposals are sought and technical evaluation criteria are used to enable the agency to make comparative judgments about the relative merits of competing proposals, offerors are on notice that qualitative distinctions among the technical proposals will be made under the various evaluation factors. Main Bldg. Maintenance, Inc., B-260945.4, Sept. 29, 1995, 95-2 CPD ¶ 214. Since offerors here were on notice of a comparative evaluation, any additional credit which CMS received in the tradeoff for offering to exceed a minimum requirement was entirely proper.

CSDC further contends that the tradeoff was unfair because its proposal was not credited with certain significant benefits of equivalent value to those offered by CMS. Specifically, the protester notes that its proposed use of additional personnel in the first 30 days of contract start-up (under the personnel factor) and its proposed senior advisory board and agency access to the firm's intranet (under management) were noted as "strengths" in the technical evaluation, but were not assigned a dollar value in the tradeoff. This argument is without merit. The agency states that, although the evaluators viewed the areas cited by the protester as "good ideas" they were insufficient to be regarded as significant discriminators (or to raise the protester's ratings under the factors from green to blue). This is because, the agency explains, CSDC's proposal "did not provide a detailed discussion of how [the additional] personnel would be utilized and the benefit to the government" or "demonstrate how [the management initiatives] provided any additional value that

would benefit [BMDO]." While CSDC disagrees with the agency's judgment in not assigning value to these areas of its proposal, it has not specifically rebutted the agency's explanation that these strengths did not provide any quantifiable additional value or benefit to the government and has not otherwise shown the agency's judgment to be unreasonable.

The protest is denied.

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